IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928

OP.No. 25410 of 2000(Y)

PETITIONER:

K.K.Chandrasekharan, S/o. Kunhikalavan, aged 64 years,
Karayil House, Edamuttom, Thrissur.

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:
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1. The Secretary to Government, Irrigation Department,
Secretariat, Trivandrum.

2. The Chief Engineer, Irrigation & Administration, Trivandrum.

3. The Executive Engineer, Minor Irrigation Division, Thrissur.

4. The Accountant General (A&E) Kerala, Trivandrum.

BY GOVERNMENT PLEADER Shri.Sandesh Raja for R1 to R3

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 20/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP No.25410/00

APPENDIX

Petitioner's Exts:

Ext.P1 true copy of the G.O.(P)No.6/90/PW&T of the Govt.

Ext.P2 true copy of the list of Service of CLR workers.

Ext.P3 true copy of the list of CLR workers attached to M.I. Division, Thrissur.

Ext.P4 true copy of the letter No.EE1-40461/88/(88) of the 2nd respondent.

Ext.P5 true copy of the letter no.ADMII(5)/14889/91 of the 2nd respondent.

Ext.P6 true copy of the G.O.(Ms.)No.1/02/RD of Govt.

Ext.P7 true copy of the G.O.(Rt)No.346/2000/Ird. of do.

Ext.P8 true copy of the G.O.(P)No.6/90/PW&T of the Government.

Ext.P9 true copy of the letter no.E4-686/90 of the Executive Engineer.

Ext.P10 true copy of the letter No.G5-35178/95 of the Chief Engineer

Antony Dominic, J.
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O.P.No.25410 of 2000
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Dated this the 20th day of February, 2007.

JUDGMENT

Petitioner rendered service in Indian Army for the period from October, 1951 to October 1972 and thereafter joined as C.L.R. in the Minor Irrigation Section at Cherpu, with effect from 25.9.1980. While so continuing, the Government issued Ext.P1 order which inter alia stated that the request of the workers organisations was considered and that the C.L.R. workers in the Public Works Department will be appointed in the regular service subject to the conditions specified in the Government Order. Among other conditions, it was specified that the C.L.R. workers to be appointed as regular service/S.L.R. posts should been in service on or before 19.5.1983 and they should have put in a minimum service of 500 as on 1.4.1987. In implementation of Ext.P1, the Executive Engineer concerned – the third respondent herein, prepared a list of C.L.R. workers eligible for the benefit of Ext.P1 and the petitioner is stated to have been included at serial No.965 in Ext.P3. It is stated that the despite the fact that the Executive Engineer pursued the matter, the benefit of Ext.P1 was not

extended to the petitioner. Ultimately, the claim of the petitioner was considered by the first respondent and Ext.P7 order was issued declining him the benefit of Ext.P1. The petitioner also contends that had he been extended the benefit of Ext.P1, he would have been eligible for the benefit of Ext.P6 Government Order and could have continued in service till he attains the age of 60 years. It is in the above background that this Writ Petition is filed seeking to quash Ext.P7 and to direct the respondents to regularise the service of the petitioner in the light of Exts.P1 to P6. In the meanwhile he retired from service on attaining 58 years. The petitioner is also seeking a direction to the respondents to disburse gratuity and other retiral benefits to him as well.

2. As already noted, the petitioner is claiming the benefit of Clause iv of Ext.P1 and according to him, as he entered the service before 19.5.1983 and completed 500 days as on 1.4.1987, he is entitled to be appointed to regular service/S.L.R. post. It is the admitted case that after rendering military service, the petitioner commenced his service as C.L.R. from 25.9.1980. A reading of Ext.P7 would disclose that the first respondent has examined the case of the petitioner and proceeded on the basis that the commencement of the petitioner's service as C.L.R. worker was only from 25.9.1980. It is

on this erroneous factual basis that the respondents have examined the case of the petitioner, which has resulted in denial of his claim. Since the first respondent examined the petitioner's case on wrong factual basis and has rendered Ext.P7, for that reason itself, Ext.P7 is liable to be quashed. Accordingly, Ext.P7 is quashed and the first respondent is directed to reconsider the case of the petitioner on the basis that the petitioner commenced his service as C.L.R. worker from 25.9.1980. It is in that view, the matter has to be reexamined. Needless to state that depending on the decision to be so taken, the first respondent shall also examine whether the petitioner is entitled to the benefit of Ext.P6 Government Order as well. As the issue relates to the case of a pensioner, it is only appropriate that the first respondent shall complete the proceedings within a period of two months from the date of receipt of a copy of this judgment.

This Original Petition is disposed of as above. No costs.

Antony Dominic
Judge.

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